

AMENDED IN ASSEMBLY MAY 23, 2014

AMENDED IN ASSEMBLY MAY 1, 2014

AMENDED IN ASSEMBLY APRIL 10, 2014

CALIFORNIA LEGISLATURE—2013–14 REGULAR SESSION

## ASSEMBLY BILL

**No. 2125**

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**Introduced by Assembly Member Ridley-Thomas**

February 20, 2014

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An act to amend Sections 8265, 8265.5, 8266, 8266.1, and 8357 of, and to repeal Section 8265.7 of, *add and repeal Section 8265.2 of the Education Code*, relating to child care.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2125, as amended, Ridley-Thomas. Child care: standard reimbursement rates.

Existing law establishes a system of child care and development services for children from infancy to 13 years of age and provides certain requirements for the payment by the state for these child care and development services. Existing law requires the Superintendent of Public Instruction to implement a plan that establishes reasonable standards and assigned reimbursement rates, as provided, and requires the standard reimbursement rate to be \$3,523 per unit of average daily enrollment for a 250-day year, increased by the cost-of-living adjustment granted by the Legislature. ~~Existing law requires the plan to require agencies having an assigned reimbursement rate above the current year standard reimbursement rate to reduce costs on an incremental basis to achieve the standard rate and requires the plan to provide for adjusting reimbursements on a case-by-case basis, as provided.~~

~~This bill would delete these requirements relating to assigned reimbursement rates and reimbursement adjustments. The bill would delete references to the standard reimbursement rate and instead would require, among other things, the reimbursement rate to be based on the most recent regional market rate survey with the ceiling established at the 100th percentile in each region per unit of average daily enrollment for a 250-day year. The bill would make conforming changes.~~

~~Existing law applies various adjustment factors to specified programs, including programs for infants and toddlers, for which reimbursement rates are at or below the standard reimbursement rate, as provided.~~

~~This bill would delete the requirement that the adjustment factors apply to those specified programs. The bill would also delete the adjustment factors for infants and toddlers.~~

~~Existing law authorizes programs above the standard reimbursement rate to be considered on a case-by-case basis for rate adjustments due to documented increases in insurance costs.~~

~~This bill would delete this provision.~~

~~Existing law requires the cost of child care services provided to CalWORKs recipients to be governed by regional market rates. Existing law requires regional market rate ceilings to be established at the 85th percentile of the 2005 regional market rate survey for that region.~~

~~This bill would instead establish the market rate ceiling at the 85th percentile of the most recent regional market rate survey for that region.~~

~~*This bill, on or before January 1, 2016, would require the Superintendent to review the plan that establishes reasonable standards and assigned reimbursement rates and submit recommendations to the Legislature and the Governor for a single reimbursement system that reflects the actual current cost of child care based on the most recent regional market rate survey. The bill would repeal these provisions on January 1, 2017.*~~

~~Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.~~

*The people of the State of California do enact as follows:*

- 1     SECTION 1. Section 8265.2 is added to the Education Code,
- 2     to read:
- 3     8265.2. (a) On or before January 1, 2016, the Superintendent
- 4     shall review the plan that establishes reasonable standards and
- 5     assigned reimbursement rates, as established pursuant to

1 *subdivision (a) of Section 8265, and submit recommendations to*  
2 *the Legislature and the Governor for a single reimbursement*  
3 *system that reflects the actual current cost of child care based on*  
4 *the most recent regional market rate survey.*

5 *(b) (1) A report to be submitted pursuant to subdivision (a)*  
6 *shall be submitted in compliance with Section 9795 of the*  
7 *Government Code.*

8 *(2) Pursuant to Section 10231.5 of the Government Code, this*  
9 *section is repealed on January 1, 2017.*

10 ~~SECTION 1. Section 8265 of the Education Code is amended~~  
11 ~~to read:~~

12 ~~8265. (a) The Superintendent shall implement a plan that~~  
13 ~~establishes reasonable standards and assigned reimbursement rates,~~  
14 ~~through a single reimbursement system, which vary with the length~~  
15 ~~of the program year and the hours of service.~~

16 ~~(1) Parent fees shall be used to pay reasonable and necessary~~  
17 ~~costs for providing additional services.~~

18 ~~(2) When establishing standards and assigned reimbursement~~  
19 ~~rates, the Superintendent shall confer with applicant agencies.~~

20 ~~(3) The reimbursement system, including standards and rates,~~  
21 ~~shall be submitted to the Joint Legislative Budget Committee.~~

22 ~~(4) The Superintendent may establish any regulations he or she~~  
23 ~~deems advisable concerning conditions of service and hours of~~  
24 ~~enrollment for children in the programs.~~

25 ~~(b) (1) The reimbursement rate shall be based on the most recent~~  
26 ~~regional market rate survey with the ceiling established at the 100th~~  
27 ~~percentile in each region per unit of average daily enrollment for~~  
28 ~~a 250-day year. The department may divide the weekly regional~~  
29 ~~market rate by five to obtain a daily rate.~~

30 ~~(2) Beginning with the year of the most recent market rate~~  
31 ~~survey established pursuant to paragraph (1), as amended by this~~  
32 ~~act in the 2013–14 Regular Session of the Legislature, contractors~~  
33 ~~that are expected to receive less under the most recent regional~~  
34 ~~market rate survey than what they previously received shall instead~~  
35 ~~receive the reimbursement rate that was in effect on July 1, 2014,~~  
36 ~~until the reimbursement rate specified in paragraph (1) exceeds~~  
37 ~~that rate.~~

38 ~~(c) The plan shall provide for expansion of child development~~  
39 ~~programs at no more than the reimbursement rate for that fiscal~~  
40 ~~year.~~

~~(d) The Superintendent may reduce the percentage of reduction for a public agency that satisfies any of the following:~~

- ~~(1) Serves more than 400 children.~~
- ~~(2) Has in effect a collective bargaining agreement.~~
- ~~(3) Has other extenuating circumstances that apply, as determined by the Superintendent.~~

~~SEC. 2.— Section 8265.5 of the Education Code is amended to read:~~

~~8265.5. (a) In order to reflect the additional expense of serving children who meet any of the criteria outlined in paragraphs (1) to (4), inclusive, of subdivision (b) the provider agency's reported child days of enrollment for these children shall be multiplied by the adjustment factors listed below:~~

~~(b) Pursuant to subdivision (a), the following adjustment factors shall apply:~~

~~(1) For children with exceptional needs who are 0 to 21 years of age, the adjustment factor shall be 1.2.~~

~~(2) For severely disabled children who are 0 to 21 years of age, the adjustment factor shall be 1.5.~~

~~(3) For a child at risk of neglect, abuse, or exploitation who are 0 to 14 years of age, the adjustment factor shall be 1.1.~~

~~(4) For limited-English-speaking and non-English-speaking children who are two years of age through kindergarten age, the adjustment factor shall be 1.1.~~

~~(c) Use of the adjustment factors shall not increase the provider agency's total annual allocation.~~

~~(d) Days of enrollment for children having more than one of the criteria outlined in paragraphs (1) to (4), inclusive, of subdivision (b) shall not be reported under more than one of the above categories.~~

~~(e) The difference between the reimbursement resulting from the use of the adjustment factors outlined in paragraphs (1) to (4), inclusive, of subdivision (b) and the reimbursement that would otherwise be received by a provider in the absence of the adjustment factors shall be used for special and appropriate services for each child for whom an adjustment factor is claimed.~~

~~SEC. 3.— Section 8265.7 of the Education Code is repealed.~~

~~SEC. 4.— Section 8266 of the Education Code is amended to read:~~

1     ~~8266.—(a) Notwithstanding Section 8265, the assigned~~  
2 ~~reimbursement rate of a center-based child care agency (1)~~  
3 ~~contracting with the department, (2) operating under licensing~~  
4 ~~standards for child care and development facilities specified by~~  
5 ~~Section 1500 et seq. of the Health and Safety Code and by Title~~  
6 ~~22 of the California Code of Regulations, and (3) with less than a~~  
7 ~~majority of subsidized children enrolled in the facility, shall be~~  
8 ~~equivalent to the fee paid for the same service by families of~~  
9 ~~nonsubsidized children.~~

10     ~~(b) (1) It is not the intent of the Legislature to preclude an~~  
11 ~~agency with a contract with the department from adjusting the fees~~  
12 ~~charged to nonsubsidized children during the contract year.~~

13     ~~(2) These agencies shall provide documentation to the~~  
14 ~~department that subsidized children, as necessary and appropriate,~~  
15 ~~shall receive supportive services through county welfare~~  
16 ~~departments, resource and referral programs, or other existing~~  
17 ~~community resources, or all of them.~~

18     ~~SEC. 5. Section 8266.1 of the Education Code is amended to~~  
19 ~~read:~~

20     ~~8266.1. Commencing with the 1995=96 fiscal year and each~~  
21 ~~fiscal year thereafter, for the purposes of this chapter,~~  
22 ~~reimbursement rates shall be adjusted by the following~~  
23 ~~reimbursement factors for child care and development programs~~  
24 ~~but shall not apply to the Resource and Referral Programs set forth~~  
25 ~~in Article 2 (commencing with Section 8210), the Alternative~~  
26 ~~Payment Programs set forth in Article 3 (commencing with Section~~  
27 ~~8220), the part-day California state preschool programs set forth~~  
28 ~~in Article 7 (commencing with Section 8235), or to the schoolage~~  
29 ~~parent and infant development programs:~~

30     ~~(a) For child care and development providers serving children~~  
31 ~~for less than four hours per day, the reimbursement factor is 55~~  
32 ~~percent of the reimbursement rate.~~

33     ~~(b) For child care and development program providers serving~~  
34 ~~children for not less than four hours per day, and less than six and~~  
35 ~~one-half hours per day, the reimbursement factor is 75 percent of~~  
36 ~~the reimbursement rate. For providers operating under the At Risk~~  
37 ~~Child Care Program set forth in Article 15.5 (commencing with~~  
38 ~~Section 8350) and serving children for not less than four hours per~~  
39 ~~day, and less than seven hours per day, the reimbursement factor~~  
40 ~~is 75 percent of the reimbursement rate.~~

~~(e) For child care and development program providers serving children for not less than six and one-half hours per day, and less than 10 and one-half hours per day, the reimbursement factor is 100 percent of the reimbursement rate. For providers operating under the At Risk Child Care Program set forth in Article 15.5 (commencing with Section 8350) and serving children for not less than seven hours per day, and less than 10 hours per day, the reimbursement factor is 100 percent of the reimbursement rate.~~

~~(d) For child care and development program providers serving children for 10 and one-half hours or more per day, the reimbursement factor is 118 percent of the reimbursement rate.~~

~~SEC. 6. Section 8357 of the Education Code is amended to read:~~

~~8357. (a) The cost of child care services provided under this article shall be governed by regional market rates. Recipients of child care services provided pursuant to this article shall be allowed to choose the child care services of licensed child care providers or child care providers who are, by law, not required to be licensed, and the cost of that child care shall be reimbursed by counties or agencies that contract with the State Department of Education if the cost is within the regional market rate. For purposes of this section, "regional market rate" means care costing no more than 1.5 market standard deviations above the mean cost of care for that region. The regional market rate ceilings shall be established at the 85th percentile of the most recent regional market rate survey for that region.~~

~~(b) Reimbursement to license-exempt child care providers shall not exceed 60 percent of the family child care home rate established pursuant to subdivision (a), effective July 1, 2011.~~

~~(c) Reimbursement to child care providers shall not exceed the fee charged to private clients for the same service.~~

~~(d) Reimbursement shall not be made for child care services when care is provided by parents, legal guardians, or members of the assistance unit.~~

~~(e) A child care provider located on an Indian reservation or rancheria and exempted from state licensing requirements shall meet applicable tribal standards.~~

~~(f) For purposes of this section, "reimbursement" means a direct payment to the provider of child care services, including license-exempt providers. If care is provided in the home of the~~

1 recipient, payment may be made to the parent as the employer,  
2 and the parent shall be informed of his or her concomitant legal  
3 and financial reporting requirements. To allow time for the  
4 development of the administrative systems necessary to issue direct  
5 payments to providers, for a period not to exceed six months from  
6 the effective date of this article, a county or an alternative payment  
7 agency contracting with the State Department of Education may  
8 reimburse the cost of child care services through a direct payment  
9 to a recipient of aid rather than to the child care provider.

10 (g) Counties and alternative payment programs shall not be  
11 bound by the rate limits described in subdivision (a) when there  
12 are, in the region, no more than two child care providers of the  
13 type needed by the recipient of child care services provided under  
14 this article.

15 (h) Notwithstanding any other law, reimbursements to child  
16 care providers based upon a daily rate shall only be authorized  
17 under either of the following circumstances:

18 (1) A family has an unscheduled but documented need of six  
19 hours or more per occurrence, such as the parent's need to work  
20 on a regularly scheduled day off, that exceeds the certified need  
21 for child care.

22 (2) A family has a documented need of six hours or more per  
23 day that exceeds no more than 14 days per month. In no event shall  
24 reimbursements to a provider based on the daily rate over one  
25 month's time exceed the provider's equivalent full-time monthly  
26 rate or applicable monthly ceiling.

27 (3) This subdivision shall not limit providers from being  
28 reimbursed for services using a weekly or monthly rate, pursuant  
29 to subdivision (c) of Section 8222.